SMB 7/28/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Oscar HERRERA-Gonzalez,** Defendant	Magistrate Docket No. '08 MJ 2285 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **July 26, 2008** within the Southern District of California, defendant, **Oscar HERRERA-Gonzalez,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **28th** DAY OF **JULY, 2008**

Jan M. Adler
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
Oscar HERRERA-Gonzalez

PROBABLE CAUSE STATEMENT

On July 26, 2008, Border Patrol Agent S. Crudale was performing line watch duties in the Chula Vista Border Patrol Station area of operations. At approximately 8:15 P.M., Agent Crudale was advised of a seismic intrusion device activation Northeast of the Otay Mesa, California Port of Entry.

Upon arriving in the area, Agent Crudale observed four individuals walking north towards a road commonly referred to as "Otay Mountain Truck Trail." Agent Crudale also observed one of the individuals, later identified as the defendant, **Oscar HERRERA-Gonzalez**, using hand signals to guide the other three individuals. Agent Crudale approached the four individuals, identified himself as a Border Patrol Agent, and questioned them regarding their citizenship, nationality and immigration documentation. All four individuals, including HERRERA, admitted to being citizens and nationals of Mexico without any immigration documents that would allow them to enter or remain in the United States legally. All four individuals were arrested and transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of HERRERA revealed an immigration history. HERRERA's record was determined by a comparison of his immigration record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed HERRERA was previously deported to **Mexico** on **August 6, 2007** through **Calexico, California.** These same records show that HERRERA has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.